

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

A.P.I.E.S - Implementation of Hon'ble A.P.A.T orders dated 03-03-2011 in O.A.No.11175 of 2011 filed by Smt. K.Padmavathamma, Retired Principal, Government Junior College [G], Adoni, Kurnool District - Treating of period from 28-08-2004 to 09-11-2004 and 17-04-2005 to 31-03-2008 as 'On Duty' - Orders - Issued.

HIGHER EDUCATION (IE-I-1) DEPARTMENT

G.O.Rt.No. 18

Dated 16th January, 2012

Read the following: -

1. From C.I.E., A.P., Hyderabad, Letter Rc.No.Ser.I-1/2903/2009-1, dated 05-12-2009.
2. G.O.Rt.No.738, Higher Education [IE-I] Department, dated 29-09-2010.
3. Government Memo.No.13700/IE-I-1/2009-3, dated 03-02-2011.
4. Hon'ble A.P.A.T orders dated 03-03-2011 in O.A.No.11175 of 2011.
5. Government Memo.No.13700/IE-I-1/2009-4, dated 12-05-2011.
6. From C.I.E., A.P., Hyderabad, Lr.Rc.No.Ser.I-1/2903/2009, dated 30-09-2011.
7. From G.P for Services-I, A.P.High Court, Hyderabad, Letter No.447/11 in O.A.No.11175/09/GP.Ser.1/PNR/HC, dated 27-09-2011.
8. Government Letter No.13700/IE-I-1/2009-8, dated 01-11-2011 addressed to the Learned Advocate - General, A.P.High Court, Hyderabad.
9. From the Learned Advocate - General, A.P.High Court, Hyderabad, Letter No.1090/2011/Opinion No.32/2011, dated 14-12-2011.

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ORDER: -

Smt. K.Padmavathamma, Retired Principal, Government Junior College [G], Adoni, Kurnool District, has been transferred and posted to Adoni on request [spousal grounds] vide G.O.Rt.No.971, Higher Education [IE-I] Department, dated 13-12-2002. In the year 2004, Smt.K.Padmavathamma, Principal was transferred from Adoni and posted to Alur, Kurnool District, on administrative grounds vide G.O.Rt.No.559, Higher Education [IE-I] Department, dated 28-08-2004 due to complaints leveled against her and Sri Kullayappa, Principal, Alur, was posted to Adoni in place of Smt.K.Padmavathamma.

02. Aggrieved upon this, Smt.K.Padmavathamma, Retired Principal, filed O.A.No.5034/2004, challenging G.O.Rt.No.559, Higher Education [IE-I-1] Department, dated 28-08-2004. The Hon'ble A.P.A.T passed interim suspension orders dated 02-09-2004 against the orders issued in G.O.Rt.No.559, Higher Education [IE-I-1] Department, dated 28-08-2004, with consequential direction to the respondents to continue the applicant at Adoni. In its final orders in the said O.A dated 02-11-2004 the Hon'ble A.P.A.T held that it is not possible to uphold the claim of the applicant as the party respondent [Sri Kullayapa, Principal] has already joined by the time interim orders issued by the Tribunal were received by the respondents, and therefore held that the impugned orders are sustained and vacated interim orders.

03. Smt.K.Padmavathamma, Principal, then filed W.P.No.20710/2004 against the orders passed in O.A.No.5034/2004. The Hon'ble A.P.High Court passed orders dated 09-02-2005 setting aside the orders in O.A.No.5034/2004, dated 02-11-2004 directing that the matter be remitted to the Government for reconsideration, and the petitioner to file representation and further directed the respondents to consider regularization of the period from date of transfer to date of orders to be passed by the Government. Further directed both the parties to maintain status quo till disposal of representation by the petitioner by the Government.

04. Smt.K.Padmavathamma, Principal submitted representation dated 17-02-2005 for her retention at Adoni, which was rejected by the Government vide Memo.No.7822, dated 16-04-2005. Further, the Government vide Memo. dated 29-08-2005 issued orders treating the period from 28-08-2004 to 09-11-2004 [date prior to the date of interim suspension order issued by the High Court] was treated as leave to which the individual is eligible, and period from 10-11-2004 to 16-04-2005 was treated as 'On Duty'.

[P.T.O]

05. Smt.K.Padmavathamma, Principal, filed another O.A.No.5519/2005, for quashing of the impugned G.O.Rt.No.559, Higher Education [IE-I-1] Department, dated 28-08-2004 and the impugned proceedings dated 16-04-2005. The Hon'ble A.P.A.T in its orders dated 26-09-2006 has set aside the impugned G.O. and consequential proceedings. The Hon'ble Tribunal have also directed that the period for which the applicant was not allowed to perform despite the interim orders of the Hon'ble A.P.High Court in W.P.No.20710/2004 shall be considered by the respondents for regularization in accordance with rules, and further observed that the above order does not preclude the authorities to take further action in the matter in accordance with law.

06. Aggrieved upon this, Sri B.Kullayappa, Principal, Adoni, had filed W.P.No.22427/2006 against the orders of Hon'ble A.P.A.T dated 26-09-2006 in O.A.No.5519 of 2006. The Hon'ble A.P.High Court. passed interim orders dated 27-10-2006 in W.P.M.P.No.28281 of 2006, to maintain status quo, and finally dismissed the W.P as infructuous as Respondent No.1 - Applicant [Smt.K.Padmavathamma, Principal] had retired from service on 31-03-2008. Accordingly, Sri Kullayappa, Principal, Adoni, has been continued at Adoni, but from the record available, posting orders were not issued to Smt.K.Padmavathamma.

07. Government vide G.O.Rt. 2nd read above, have dropped the Departmental Proceedings initiated against Smt.K.Padmavathamma, Principal, and also vide Government Memo.3rd read above, have issued orders treating the period of un-authorized absence for the period from 17-04-2005 to 31-03-2008 in respect of the individual as 'Dies - Non' as she had not applied for any kind of leave right from the time she was transferred from GJC, Adoni, nor she requested for posting orders and retired from the service on superannuation on 31-03-2008 on attaining the age of superannuation.

08. Smt.K.Padmavathamma, Principal, had filed one more O.A.No.11175/2009, after retirement on 31-03-2008, requesting to quash the impugned proceedings of the Director of Intermediate Education, dated 11-06-2009 to conduct enquiry against her once again and to direct the respondents to regularize the period from 28-08-2004 to 09-11-2004 and from 17-04-2005 to 31-03-2008 and pay the salary and other emoluments for the said period and also to pay the pension and other retrial benefits with interest. In the said O.A., she had also stated that after passing orders on 16-04-2005 and 29-08-2005, the fresh orders giving posting orders to the applicant were not passed. The Director of Intermediate Education has filed counter - affidavit in the said O.A., stating that the applicant has not applied any kind of leave from the day she was transferred from GJC [Girls], Adoni, nor she has requested for posting orders, though she has retired from service on 31-03-2008 on superannuation.

09. The Hon'ble A.P.A.T in its orders dated 03-03-2011, while allowing the O.A.No.11175/2009 have set aside the impugned Govt. Memo. 3rd read above issued by the 1st Respondent, treating the period from 17-04-2005 to 31-03-2008 as 'Dies - Non', and further directed to pass appropriate orders, treating the period from 28-08-2004 to 09-11-2004 and 17-04-2005 to 31-03-2005 as on duty, and release the Pension, Gratuity and other retirement benefits within the time limit as prescribed therein, by observing that inspite of the Tribunal as well as the Hon'ble A.P.High Court orders, setting aside the transfer orders issued in G.O.Rt.No.559, Higher Education [IE-I] Department, dated 28-08-2004, the applicant was not allowed to continue as Principal, Government Junior College for Girls, Adoni, Kurnool District and the respondents did not permit the applicant to join duty and also allowed to retire without giving any posting orders.

10. The G.P for Services-I, A.P.High Court, Hyderabad and the Learned Advocate - General, A.P.High Court, Hyderabad, were requested to tender their opinion. The G.P for Services - I, A.P.High Court, Hyderabad, vide his Letter 7th read above, has stated that there are no grounds to file an appeal petition against the Hon'ble A.P.A.T orders dated 03-03-2011 in O.A.No.11175 of 2009. The Learned Advocate - General, A.P.High Court, Hyderabad, in his Lr. 9th read above had opined that with the order of the transfer being set aside by the Tribunal and having given the applicant an order posting her back to the place from which she was transferred, the mere keeping of the same under abeyance cannot be interpreted as a revival of the earlier order which has been set aside by the Tribunal unless a specific order giving her posting is issued, and admittedly this was not done and therefore opined that the order of the Hon'ble A.P.A.T cannot be challenged with success as it cannot be said that there has been an error of jurisdiction or abuse of the jurisdiction warranting institution of a Writ Petition which would therefore, be befitting the status of the Government to implement the orders of the Hon'ble A.P.A.T.

11. In the light of the Hon'ble A.P.A.T orders dated 03-03-2011 in O.A.No.11175/2009 and the considered opinion tendered by the Learned Advocate - General, A.P.High Court, Hyderabad, in the matter, Government, after careful examination, have decided to treat the period from 28-08-2004 to 09-11-2004 and from 17-04-2005 to 31-03-2008 in respect of Smt.K.Padmavathamma, Retired Principal, Government Junior College [Girls], Adoni, Kurnool District as 'On Duty'. Accordingly, the period from 28-08-2004 to 09-11-2004 and from 17-04-2005 to 31-03-2008 is treated as 'On Duty' and pay the salary and other emoluments for the said period along with Pension and other retirement benefits to Smt.K.Padmavathamma, Retired Principal.
12. The C.I.E., A.P., Hyderabad, shall take necessary further action in the matter accordingly.
13. This order issues with the concurrence of Finance [FR-I] Department vide their U.O.No.34034/710/FR-I/11, dated 04-01-2012.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.D.SAMBASIVA RAO,
PRINCIPAL SECRETARY TO GOVERNMENT [S.E].

To
The Commissioner of Intermediate Education, A.P., Hyderabad.
The Accountant-General, A.P., Hyderabad.
The Director of Treasuries and Accounts, A.P., Hyderabad.
Copy to: -
The Government Pleader for Education [H] & Law (S), A.P.A.T., Hyderabad.
SF / SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER